HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1512 of 2005 (SS)

Ram Narayan s/o Sri Sita Ram
R/o village Sikatpur, Pargana Rampur Maniharan,
Tehsil Deoband, District Saharanpur ..... Petitioner

Versus

1. Director General of Police, Uttaranchal
2. Inspector General of Police, Garhwal Region
3. Superintendent of Police, Pauri Garhwal

..... Respondents.

Sri Rajendra Singh, Advocate for the petitioner
Sri Nanak Chand Gupta, Standing counsel for the respondents.

Dated: 8.2.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Rajendra Singh, counsel for the petitioner and Sri Nanak Chand Gupta, Standing Counsel for the respondents.

By the present writ petition, the petitioner prays for a writ of certiorari quashing the order dated 18.12.2001 passed by the respondent no.3, orders dated 18.10.2004 and 13.5.2004 passed by the respondent no.1 and order dated 20.10.2002 passed by the respondent no.2.

Brief stated according to the petitioner he was appointed as Constable in U.P. Civil Police on 16.2.1986. In the year 2000 he was posted as a Constable in the Guard of Deputy Inspector General of Police at Pauri. The respondent no. 3 has issued a show cause notice on 30.11.2001 to the petitioner

under U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules 1991 with the allegations that he misbehaved with his colleagues constables after consuming liquor. Enquiry against the petitioner on this charge was conducted by the Circle Officer, kotdwar who held the petitioner guilty of negligence and indiscipline. On the basis of said inquiry, respondent no.3 terminated the service of the petitioner vide order dated 18.12.2001. According to the petitioner he preferred appeal against the order of his termination before the Deputy Inspector General who also dismissed the appeal on 20.10.2002 on the ground that the appeal was time barred. The petitioner also preferred a revision before the Inspector General of Police, Dehradun who also dismissed the revision vide order dated 13.5.2004 on the ground of limitation also.

The contention of the petitioner is that respondent no.3 has passed the termination order against him ex parte without giving him opportunity of hearing. He preferred appeal against the order of termination but the appeal was also dismissed summarily being time barred. He also preferred revision but that was also dismissed on the ground of limitation.

The Apex Court in the case N. Balakrishnan v. M. Krishnamurthy Supreme Court & Full bench Rent Cases, 1998 page 427 held as under:

"Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so

suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

It must be remembered that in every case of delay, there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy, the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time, then the court should lean against acceptance of the explanation. While condoning the delay, the court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant, the court shall compensate the opposite party for his loss.

The need of society is that there should be justice-oriented approach and the appeal should not be rejected only on the ground of technicalities. The Apex Court has held in (2001) 8 SCC 151, M.S. Grewal vs. Deep Chand Sood as under:

"Law Courts will lose their efficicacy if they cannot possibly respond to the need of the society- technicalities there might be many but the justice-oriented approach ought not to be thwarted on the basis of such technicality since technicality cannot and ought not to outweigh the course of justice."

Thus in view of the principle of law laid down by the Apex Court the plea raised by the petitioner in appeal cannot be turn down and doors of justice cannot be shut up for the petitioner only on the ground of limitation. The writ petition is, therefore, deserves to be allowed.

Accordingly, the writ petition is allowed. Impugned orders passed by the appellate and revisional authorities are set aside. The matter is remanded to the appellate authority for deciding the appeal on merit after giving opportunity to the petitioner for hearing within the stipulated period prescribed for the disposal of the appeal.

No order as to costs.

Dated:8.2.2006

*Dhyani **Rajesh Tandon J.**